



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35879]

BNSF Railway Company—Temporary Trackage Rights Exemption—Union Pacific
Railroad Company

Pursuant to a written temporary trackage rights agreement entered into between BNSF Railway Company (BNSF) and Union Pacific Railroad Company (UP), dated November 24, 2014, UP has agreed to grant restricted local trackage rights to BNSF as follows: (1) between UP milepost 93.2 at Stockton, Ca., on UP's Oakland Subdivision, and UP milepost 219.4 at Elsey, Ca., on UP's Canyon Subdivision, a distance of 126.2 miles; and (2) between UP milepost 219.4 at Elsey and UP milepost 280.7 at Keddie, Ca., on UP's Canyon Subdivision, a distance of 61.3 miles.¹ The trackage rights are restricted to movements of BNSF's unit ballast trains (loaded and empty) to and from the ballast pit located at Elsey.

¹ The trackage rights being granted here are only temporary rights but, because they are "local" rather than "overhead" rights, they do not qualify for the Board's class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). See R.R. Consolidation Procedures—Exemption for Temporary Trackage Rights, STB EP 282 (Sub-No. 20) (STB served May 23, 2003). Therefore, BNSF has concurrently filed a petition for partial revocation of this exemption in BNSF Railway Company—Temporary Trackage Rights Exemption—Union Pacific Railroad Company, Docket No. FD 35879 (Sub-No. 1), wherein BNSF requests that the Board permit the proposed local trackage rights arrangement described in the present proceeding to expire at midnight on or about October 31, 2015, as provided in the parties' agreement. That petition will be addressed by the Board in a separate decision.

The transaction is scheduled to be consummated on or after December 25, 2014, the effective date of the exemption (30 days after the exemption is filed).

As a condition to this exemption, any employee affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by December 18, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35879, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Ball Janik LLP, Suite 225, 655 Fifteenth St., N.W., Washington, DC 20005; and Courtney Biery Estes, BNSF Railway Company, 2500 Lou Menk Drive, AOB-3, Fort Worth, TX 76131.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: December 8, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

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